

Article 25B.

Egg Promotion Tax.

§ 106-245.30 Legislative findings; purpose of Article.

The General Assembly finds and declares that eggs are important to the prosperity of this State and are a major source of income to a large segment of the State's population. Additional research, education, publicity, advertising and other means of promoting the sale and use of eggs are required to enhance the economical production and marketing of eggs and will be beneficial to the State as a whole. (1987, c. 815, s. 1.)

§ 106-245.31. Definitions.

As used in this Article:

- (1) "Board" means the North Carolina Board of Agriculture.
- (2) "Commissioner" means the Commissioner of Agriculture.
- (3) "Department" means the North Carolina Department of Agriculture and Consumer Services. (1987, c. 815, s. 1; 1997-261, s. 43.)

§ 106-245.32. Levy of tax; rules.

An excise tax is levied on eggs and processed eggs sold for use in this State. The tax on eggs is five cents (5¢) for each case of 30 dozen eggs. The tax on processed eggs is eleven cents (11¢) for each 100 pounds of processed eggs sold for use in this State. The tax imposed by this section is payable only once on the same eggs or processed eggs.

Processed eggs include frozen eggs, liquid eggs, and hard-cooked eggs. "Use" means consumption by the consumer. The Board may adopt rules necessary to administer this tax. (1987, c. 815, s. 1; 1989 (Reg. Sess., 1990), c. 1001, s. 1.)

§ 106-245.33. Report and payment of tax by handler; definition and functions of handler.

(a) The tax imposed by this Article is payable monthly to the Department by the handler of eggs or processed eggs. The tax is due when a report is required to be filed. A handler shall file a report with the Department on a form provided by the Department within 20 days after the end of each month. The report shall state the volume of eggs or processed eggs handled by the handler during the preceding month.

(b) The term "handler" means any person who operates a grading station in North Carolina, a packer, huckster, or distributor who handles eggs in North Carolina, a farmer who packs, processes, or otherwise performs the functions of a handler in North Carolina, or a distributor or seller of processed eggs. The term "handler" includes any person in North Carolina who purchases eggs for sale or distribution or any farmer in North Carolina who sells or distributes eggs to anyone other than a registered handler.

For purposes of this Article, the functions of a handler of eggs or processed eggs include the sale, distribution, or other disposition of eggs or processed eggs in North Carolina regardless of where the eggs or processed eggs were produced or purchased.

The term "registered handler" means any person who has registered with the Department to receive monthly return forms for reporting the tax levied by this Article.

Every person, whether inside or outside the State, who engages in business in North Carolina as a handler is required to register and to collect and pay the tax due on all eggs or processed eggs

sold for use in this State. A handler shall maintain a certificate of registration, file returns, and perform all other duties required of handlers. (1987, c. 815, s. 1; 1989 (Reg. Sess., 1990), c. 1001, s. 2.)

§ 106-245.34. Exemptions.

Eggs sold by a handler who sells less than 500 cases a year are exempt from the tax levied under this Article. Processed eggs sold by a handler who sells less than 1,000 pounds of processed eggs a year are exempt from the tax levied under this Article. The Board shall establish a procedure for returning taxes paid on exempt eggs or processed eggs. (1987, c. 815, s. 1; 1989 (Reg. Sess., 1990), c. 1001, s. 3.)

§ 106-245.34A. Additional exemption.

The tax provided for herein shall not be levied upon any eggs which are assessed under the Agricultural Marketing Agreement Act of 1937 (7 USC 601 et seq.). (1987, c. 815, s. 2.)

§ 106-245.35. Records to be kept by handler.

The handler shall keep a complete record of the eggs or processed eggs handled by him for a period of not less than two years from the time the eggs or processed eggs were handled. These records shall be open for inspection by the Commissioner or his duly authorized agents and shall be established and maintained as required by the Commissioner. (1987, c. 815, s. 1; 1989 (Reg. Sess., 1990), c. 1001, s. 4.)

§ 106-245.36. Interest on tax; collection of delinquent tax.

The tax imposed under the provisions of this Article and unpaid on the date on which the tax was due and payable shall bear interest at the rate determined in accordance with G.S. 105-241.21 from and after such due date until paid. If any person defaults in any payment of the tax or interest thereon, the amount shall be collected by a civil action in the name of the State and the person adjudged in default shall pay the cost of such action. The Attorney General, at the request of the Commissioner, shall institute such action in the proper court for the collection of the amount of any tax past due under this Article including interest thereon. (1987, c. 815, s. 1; 2007-491, s. 44(1)a.)

§ 106-245.37. North Carolina Egg Fund.

All moneys levied and collected under the provisions of this Article shall be deposited with the State Treasurer to a fund to be known as the "North Carolina Egg Fund". All moneys credited to the "North Carolina Egg Fund" are hereby appropriated to the North Carolina Egg Association, a North Carolina nonprofit corporation, for research, education, publicity, advertising, and other promotional activities for the benefit of producers of eggs sold in North Carolina. Moneys in the North Carolina Egg fund are held in trust for the benefit of producers of eggs sold in North Carolina and such moneys shall not be or become part of the General Fund. (1987, c. 738, s. 138(a); c. 815, s. 1.)

§ 106-245.38. Violations.

(a) It shall be a Class 1 misdemeanor for any handler knowingly to report falsely to the Department the quantity of eggs or processed eggs handled by him during any period, to falsify the records of the eggs or processed eggs handled by him, to fail to keep a complete record of the eggs or processed eggs handled by him, or to fail to preserve the records for a period of not less than two years from the time the eggs or processed eggs are handled.

(b) It shall be a violation of the North Carolina Egg Law, Article 25A of this Chapter, for a handler to fail to register as required by this Article. Any eggs transported, sold, or offered for sale by a handler who is not a registered handler shall be subject to the stop-sale and penalty provisions of the North Carolina Egg Law. (1987, c. 815, s. 1; 1989 (Reg. Sess., 1990), c. 1001, s. 5; 1993, c. 539, s. 751; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 106-245.39. Effect on Article 50 of Chapter 106.

After October 1, 1987 no egg assessment shall be collected under Article 50 of Chapter 106 of the General Statutes. (1987, c. 815, s. 3.)